

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE: DEALER MANAGEMENT
SYSTEMS ANTITRUST LITIGATION

MDL No. 2817
Case No. 18-cv-00864

This Document Relates To:

Hon. Rebecca R. Pallmeyer

THE DEALERSHIP CLASS ACTION

THE VENDOR CLASS'S RESPONSE TO DEALERS' MOTION TO STRIKE

Plaintiff Loop, LLC, d/b/a/ AutoLoop (“Vendor Class”) respectfully submits this response to the Dealership Class Plaintiffs’ (“Dealers”) Motion to Strike the Vendor Class’s two-page statement of interest and 5-page supplemental expert report of Dr. Mark Israel regarding Dealers’ *Daubert* motion seeking the exclusion of the testimony of Dr. Laila Haider, CDK Global, LLC’s (“CDK”) class expert.

As noted in the Vendor Class’s statement, in analyzing CDK’s prices, both Dr. Haider and Dr. Israel treated CDK’s temporary data integration “fee waivers” like any other prices that vendors paid, by including them in their regression analyses. But Dr. Williams (Dealers’ expert) instead excluded them from his regressions, which increased the overcharges (and thus damages) claimed by Dealers. In their *Daubert* motion, Dealers contend that Dr. Haider’s approach (which is the same one used by Dr. Israel) constitutes a “fundamental error” and merits being excluded as inherently unreliable under *Daubert*. *See* Dkt. 1477-1 at 6-7.

Dealers argue that the Vendor Class had no right to submit the statement and accompanying expert report. But in these consolidated MDL proceedings, the Vendor Class had every right to ensure its position was clear on a matter that could implicate the treatment of its own expert’s testimony. This is especially so where, as noted in the statement, Dealers’ and Dr. Williams’s position is the one that reflects a “fundamental econometric error”: any “valid method needs to

include” the fee waivers, which actually “did occur during the conspiracy period.” Dkt. 1494-1 (Israel Suppl.), ¶¶ 8, 9 & n.10.

In addition, contrary to Dealers’ contention, the Vendor Class has not sought any change to the case schedule. The Vendor Class submitted its position on the same date that CDK submitted its opposition to the *Daubert* motion at issue, and Dealers can reply to the two-page statement at the same time it replies to CDK’s opposition – on June 10, which is what Dealers’ motion to strike (at 4) even proposes.

Nevertheless, Dealers state (at 1) in their motion to strike that “the Court’s ruling on the Haider Daubert Motion will have no effect on the Vendors’ case.” The Vendor Class will accept that representation as true. With that understanding, the Vendor Class agrees voluntarily to withdraw its statement and accompanying expert report, thereby mooted Dealers’ motion to strike.

Dated: May 24, 2024

Respectfully submitted,

/s/ Derek T. Ho

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*MDL Co-Lead Counsel and Interim Class Counsel
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of itself and all others similarly situated*

CERTIFICATE OF SERVICE

I, Derek T. Ho, an attorney, hereby certify that on May 24, 2024, I caused a true and correct copy of the foregoing **THE VENDOR CLASS'S RESPONSE TO DEALERS' MOTION TO STRIKE** to be filed and served electronically via the Court's CM/ECF system. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF system.

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